



Instructions for Completing the Application Form for Covenant Not to Sue - CGS Section 22a-133aa

Use these instructions to complete the application form (DEP-CNTSAA-APP-300). These instructions are not a substitute for the requirements of any relevant statutes or regulations. You should review all applicable laws prior to completing this application. Remember, it is your responsibility to comply with all applicable laws.

Introduction

In accordance with Section 22a-133aa of the Connecticut General Statutes (CGS), as amended by Public Act 98-253, the Commissioner of the Connecticut Department of Environmental Protection ("the Commissioner") may enter into a covenant not to sue with a prospective purchaser or an owner of contaminated property, or with any lending institution to whom such prospective purchaser or owner conveys a security interest in such property, provided that certain conditions are met and certain certifications are made.

In accordance with CGS Section 22a-133cc, any person requesting a covenant not to sue must submit to the Commissioner sufficient information to allow the Commissioner to make the determinations required. The application form *Covenant Not to Sue - CGS Section 22a-133aa* (DEP-CNTSAA-APP-300) is designed to solicit the information necessary for the Commissioner to make these determinations.

How to Apply

Any person who seeks a covenant not to sue must complete the *Application Form for Covenant Not to Sue - CGS Section 22a-133aa* (DEP-CNTSAA-APP-300) and submit it to the Connecticut Department of Environmental Protection at the following address:

REMEDICATION DIVISION
BUREAU OF WATER PROTECTION AND LAND REUSE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106-5127

Two separate applications must be completed if both a prospective purchaser and a lending institution are requesting a covenant not to sue for the same property.

For further information or assistance, please call the Remediation Division of the Bureau of Water Protection and Land Reuse at 860-424-3705.

Fee Information

A prospective purchaser or owner receiving a covenant not to sue under CGS Section 22a-133aa must pay a fee equal to three percent of the value of the property for which the covenant not to sue was issued. The property must be appraised as if the property were uncontaminated. The fee must be paid by a bank check or money order made payable to the Department of Environmental Protection when the covenant not to sue is issued.

No fee is required for a covenant not to sue issued to a successor in interest to the original holder of a covenant, or if the covenant not to sue is issued in connection with a remediation project conducted under CGS Section 22a-133m, as amended.

Part I: Applicant Information

1. *Name* - Provide the legal name of the applicant. If identifying an entity registered with the Secretary of the State, fill in the name exactly as it is shown on such registration. If identifying an *individual*, provide the full legal name (include title and suffix) in the following format: Title (Ms., Dr., etc.); First Name; Middle Initial; Last Name; Suffix (Jr., PE, PhD, etc.).

Phone - Unless otherwise indicated, the phone number provided should be the number where the party can be contacted during the daytime business hours.

Contact Person - Provide the name of the specific individual within the company whom DEP may contact.

2. *Primary Contact* - If you have authorized a consultant, engineer, attorney or other individual to act for you during the processing of this application, complete this section. DEP will direct copies of all correspondence and inquiries to this primary contact.
3. If the applicant is a lending institution, provide information on the prospective purchaser or owner who has or will convey a security interest in the contaminated real property.

Part II: Property Information

1. Provide a description of the real property to which the covenant not to sue will be applicable. Include the description that is given in the property deed.
- 4, 5, 7, 8, and 9. Provide information about the number of individuals currently employed at the property, the types of jobs currently supported at the property, the number and types of additional jobs which will be created by the proposed use of the property, and the number and types of existing jobs which will be

supported at the property by the proposed use. Provide the number of full-time jobs (i.e., 40 hours per week), part-time jobs, permanent and temporary jobs, the number of different types of jobs (such as engineering, scientific, clerical, retail, construction), and average salaries. For part-time jobs, also provide the equivalent number of full-time jobs.

14. Explain why, in your opinion, the issuance of a covenant not to sue is in the interest of the public. Include reasons other than the number of jobs that will be supported at the property. Note any unique aspects of the proposed reuse.

Items 1 through 15 must be answered completely. If you have any questions or need assistance, please call the Remediation Division of the Bureau of Water Protection and Land Reuse at 860-424-3705.

Part III: Supporting Documents

Check the appropriate box by each attachment as verification that all applicable attachments have been submitted.

Please label all attachments as referenced in the application form and these instructions, and be sure to include the name of the applicant.

Attachment A: A-2 Survey

Attachment B: Environmental Assessment Report (*optional*)

Attachment C: Approval of Remediation Plan

Attachment D: Remediation Plan (*optional*)

Attachment E: Approval of Final Remedial Action Report, if applicable

Part IV: Certification

The appropriate certification must be signed by the applicant. There are four separate certification forms (Forms A-D). Choose the relevant form based on the type of entity applying, as follows:

Form A: Applicant is one or more individuals, or a partnership;

Form B: Applicant is a corporation;

Form C: Applicant is a municipal, state or federal agency or department; or

Form D: Applicant is a lending institution.

The certification of the application shall be signed as follows:

1. For an individual(s) or sole proprietorship: by the individual(s) or proprietor, respectively;
2. For a corporation: by a principal executive officer of at least the level of vice president;
3. For a limited liability company (LLC): a manager, if management of the LLC is vested in a manager(s) in accordance with the company's "Articles of Organization", or a member of the LLC if no authority is vested in a manager(s);
4. For a partnership: by a general partner;
5. For a municipal, state, or federal agency or department: by either a principal executive officer, a ranking elected official, or by other representatives of such applicant authorized by law.

The signatures must be notarized. An application will not be considered complete unless all required signatures are provided.